

REMARKS

This responds to the Office Action mailed on July 8, 2009.

Claims 1, 28, 31, 38, and 41-44 are amended, no claims are canceled, and no claims are added; as a result, claims 1-52 are now pending in this application.

Claim Objections

Claim 44 is objected to because of the following informalities: On line 5 of Claim 44, "said data modification system" should be "said data modification device." Claim 44 has been amended to correct this.

§ 102 Rejection of the Claims

Claims 1, 2, 5, 8-10, 12, 14, 17-19, 22-25, 27-29, 31, 32, 37-39, and 41-50 are rejected under 35 U.S.C. § 102(e) as being anticipated by Del Sesto et al. "Del Sesto" (US Pub. No. 2007/0130581 A1).

Regarding independent claim 1, Examiner argues that Del Sesto discloses the limitations of this claim and in particular "said substitution determination parameter specifying an evaluation type (i.e., priority comparison that indicates whether the interactive content can be replaced, passed through, or blocked) and an evaluation value (i.e., flag that indicates type of interactive content; [0058]) for determining when a subset of original broadcast meta data in said data signal should be replaced ([0045] & [0058-0062]);" (Office Action, 07/08/2009, Page 7.)

Applicants respectfully disagree since Del Sesto merely discloses a single OPT field rather than two fields corresponding to the present claim's evaluation type field and evaluation value field. Examiner also argues that the present claim does not explicitly require that the substitution parameter be comprised of two separate data fields. (Office Action, Page 2.) Applicants respectfully disagree on this point also. Nevertheless, in the interest of advancing the present application, Applicants have amended independent claim 1 to incorporate the relevant aspects of Examiner's amendment suggestion (Office Action, Pages 2-3) that would allow the two-part parameter argument to overcome the OPT field disclosed by Del Sesto.

Applicants submit that claim 1 is therefore allowable and respectfully request the withdrawal of the rejection of claim 1 under § 102. Independent claims 28, 31, 38, and 41-44 contain similar limitations to claim 1 and are allowable for at least the same reasons. Claims 2-5, 8-10, 12, 14, 17-19, 22-25, 27, 29, 32, 37, 39, and 45-50 are allowable because they depend from allowable independent claims, and because of their additional limitations. Consequently, reconsideration and allowance of claims 1, 2, 5, 8-10, 12, 14, 17-19, 22-25, 27-29, 31, 32, 37-39, and 41-50 are respectfully requested.

§ 103 Rejection of the Claims

Claims 6, 7, 11, 15, 16, 20, 21, and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Del Sesto.

Claims 3, 30, 33-35, and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Del Sesto in view of Picco et al. "Picco" (USPN 6,029,045).

Claims 4, 13, 36, 51, and 52 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Del Sesto in view of Kalluri et al. "Kalluri" (USPN 5,937,331).

Claims 3, 4, 6, 7, 11, 13, 15, 16, 20, 21, 26, 30, 33-36, 40, 51 and 52 are allowable because they depend from allowable independent claims, and because of their additional limitations. Consequently, reconsideration and allowance of Claims 3, 4, 6, 7, 11, 13, 15, 16, 20, 21, 26, 30, 33-36, 40, 51 and 52 are respectfully requested.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 660-2014 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 12/8/2009

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 8 day of December, 2009.

John D. Gustav-Wrathall

Name

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Signature